

# Appendix D

**Shoreline Substantial Development Permit  
Updated Public Access Memorandum  
Taylor Shellfish – Oakland Bay Floating Oyster Farm**

**I. Overview**

This memorandum responds to questions raised during the Hearing Examiner public testimony for the Shoreline Substantial Development Permit (SHR2023-00003). The purpose of this memorandum is to provide additional information and analysis demonstrating the Proposal complies with relevant Mason County SMP provisions regarding public access.

**II. Proposal Description**

The Proposal is for the installation and operation of a floating oyster bag cultivation system on two subtidal parcels (32015-22-22222 and 32016-22-22222) owned by the Washington Department of Natural Resources (DNR) in Oakland Bay. The full lease boundary is identified under WADNR lease # 20-104436 and covers 50 acres (the “Site”). However, the Proposal’s gear will only occupy a minor portion—approximately 9.1 acres—of the Site. *See* Figure A, attached.

The Proposal’s oyster bags will be stocked with seed oysters to increase capacity and relieve pressure on the nearby Oakland Bay Floating Upweller System (FLUPSY). Seed oysters planted in the Proposal’s bags will be secured from Taylor Shellfish’s Oakland Bay FLUPSY or from the company’s onshore nursery facility. Some of the Proposal’s oysters may be transferred to other Taylor Shellfish farm locations for further grow-out until they are ready for harvest, and some of the Proposal’s oysters may remain in the oyster bags at the Site until they are harvested and delivered to market.

The Proposal’s system will include a series of bags used to cultivate oysters. Bags are made from ultraviolet (UV)-resistant, high-density polyethylene (HDPE) mesh and measure a maximum of 48 inches by 48 inches. Oyster bags will be arranged in a set of double-rows oriented in a northeast-southwest direction. Each row of bags will be secured by a headline that runs for approximately 1,800 feet. There will be approximately 30 feet of space in between each end anchor which then connects to a double-row of bags. This spacing allows navigational access to the floating bags for maintenance and harvest. Each bag is constructed with an integrated floating device to ensure the bags remain on the water’s surface, and an additional float will be located at the end of each double-row of bags. Each end-line float will be secured to an anchor, and an additional anchor may be used near the center of each double-row. Once fully built out, there will be a total of 28 double-rows, and a total of 60-90 anchors.<sup>1</sup>

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<sup>1</sup> Additional information regarding the installation, maintenance, and operation of the proposed oyster farm is provided in referenced project documents referenced in Section I, above.

### **III. The Proposal Complies with Public Access Provisions of the SMP**

Previous review of the Proposal concluded that the Proposal satisfies all criteria for Substantial Development Permit issuance, as set forth in MCC 17.50.400(c)(3)(A)(ii). Additional analysis is provided here addressing the public access provisions of the SMP.

The Mason County SMP defines public access as “the ability of the general public or, in some cases, a specific community, to reach, touch, and enjoy the water’s edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations.” MCC 17.50.020

The SMP requires public access to be provided for certain projects and expresses a preference for providing on-site, physical access to the shoreline. *See* MCC 17.50.140(b)(3) (authorizing alternatives to such access in limited circumstances). The amount of provided public access is to be commensurate with the anticipated impact of a project and consistent with all relevant constitutional and other legal limitations. MCC 17.50.140(a),(b)(17).

### **IV. The Proposal Will Have a Minor Impact on Public Access.**

The Proposal will have, at most, a minor impact on public access. As illustrated in Figure A, the Proposal will not impede access to the shoreline, nor will it impact the public’s ability to access recreation or navigation opportunities within Oakland Bay. The Proposal is located over 1,000 feet from all neighboring upland areas, facilitating travel and recreation through and within Oakland Bay.

The Proposal’s impact to public access will consist of limiting boaters from travelling on areas of water occupied by the approximately 9.1 acres of gear, along with minor additional area around the gear accounting for a safety factor. Mason County’s SMP recognizes that floating aquaculture projects have the potential to impact public access through and across waterways due to their subtidal location and has established a policy that floating aquaculture surface installations incorporate features to reduce use conflicts. MCC 17.50.210(a)(13). The Proposal’s design provides a 30-foot separation between lines of oyster bags, allowing for a significant reduction in potential use conflicts related to recreational boating public access.

Based on the company’s experience operating a similar farm in British Columbia, boaters easily and safely navigate and recreate in the areas of water provided between the 30-foot rows of floating oyster bags. With 30-foot spacing, the lines may sway with tides or wind, reducing the distance between lines by a few feet. However, boaters will still have a clear path to travel through the lines.

Because boaters can easily and safely navigate in between the Proposal’s oyster bags, the Proposal is not expected to adversely impact boaters traveling north or south in Oakland Bay. However, even if boaters did not choose to travel in between the Proposal’s rows of oyster bags, they could still easily travel north and south through the Bay as the Proposal is sited over 1,000 feet from each shoreline. Similarly, individuals traveling west or east Oakland Bay at the

location of the Proposal would still be able to do so, although they would need to spend some additional time navigating to the north or south depending on their destination.

On August 28, 2023, Taylor staff investigated the site to verify the depths of the water within and around the Proposal area. Oakland Bay is relatively shallow, with the deepest part of the Bay at the South end nearest Shelton and gradually getting shallower to the North. At MLLW, the Proposal site is situated in 8 feet of water. Taylor's investigation focused on the shallower area of Oakland Bay located at the northern end of the Proposal site. The northwest corner of the Proposal site is at 9-foot depth. The deepest part of the Bay in this area is to the north of the Proposal site, where the water depth is 10 feet. Thus, the Proposal would not occupy the deepest area of the Bay, ensuring that boaters will be able to navigate outside and around the boundaries of the farm.

The limited restrictions associated with the Proposal described directly above are not expected to impact a large segment of the public. Oakland Bay is in a rural location and is known for its industrial, rather than recreational, activities. Mason County Shoreline Inventory and Characterization Report ("Shoreline Inventory"), p. 3-32. Predominant land uses within Oakland Bay generally include residential and vacant lots, as well as agriculture and forestry. *Id.* p. 5-92. Tidelands to the south and east of the Proposal are owned by Taylor Shellfish, and upland uses include a County Park (Sunset View), residential, and undeveloped land. See Figure A. Areas to the north are largely undeveloped, and areas to the west are characterized by rural residential development. In the aquatic environment, "[a]quaculture is a significant resource and important economic driver in Mason County," with a mix of both large and small companies operating in Oakland Bay, including Taylor Shellfish. *Id.* Further:

Public access is available to tidelands mostly managed by WDFW. Mason County manages several community parks along both Hammersley Inlet and Oakland Bay: Jacoby Shorecrest County Park, Walker County Park and Oakland Bay Historical Park (Mason County Department of Parks and Trails, 2006). In addition, there are two public boat launches: one is managed by Taylor Shellfish and WDFW and provides access to Oakland Bay; and a second, Arcadia Boat Launch, is owned by Squaxin Island Tribe and provides access to Hammersley Inlet (Explore Hood Canal, 2011).

*Id.* See also *id.* at 5-94.

Significant recreational activities within Oakland Bay include recreational shellfish harvesting. *Id.* Further, Oakland Bay is identified as a shallow bay that does not provide water depths necessary to accommodate larger boats and is not viable for marina development. *Id.* at 10-22. The closest existing marina is located south of the Proposal Site and within the City of Shelton, near the intersection of Oakland Bay and Hammersley Inlet. Individuals who use this marina typically take their boats east through Hammersley Inlet, which connects to the larger waters and resources of South Puget Sound, rather than north through Oakland Bay. To the extent that boaters use Oakland Bay, such use is primarily concentrated in the southern portion of Oakland Bay, which contains deeper water. Taylor farm managers who have worked in Oakland Bay and Chapman's Cove for over 10 years report that the use of the Site of the Proposal for recreation is

extremely low. Most recreation is from those using kayaks or fishing along the shoreline. The farm manager noted that they get occasional visitors to the existing near bottom bag operations. These visitors were curious regarding the farm operations and have enjoyed speaking with the crews and learning about the system.

Given the rural setting and environmental characteristics of Oakland Bay, along with historical use patterns, the potential public access impact of the Proposal would be limited to some individuals who live near the Site spending additional time to navigate around the Proposal. Comments identifying this impact were raised during the public comment period and are noted. The Proposal would not negatively impact the broader public, which has not frequently used the Site for recreational purposes. Nor would the Proposal adversely impact the most significant recreational activity within Oakland Bay—recreational shellfish harvest. In fact, given some oysters from the Proposal will be harvested for human consumption, the presence of this farm will provide additional incentives for protecting the water quality within Oakland Bay to ensure cultivated shellfish are safe for consumption. The Proposal’s oysters will themselves also help improve water quality through filter feeding. This will help improve the water quality within Oakland Bay generally and positively impact opportunities for recreational shellfish harvest within the bay by helping to ensure the bay remains open for recreational harvesting.

**V. Taylor Is Proposing to Provide Additional Public Access that Will More than Offset Any Minor Impacts from the Proposal.**

While the Proposal may have a limited impact on public access as discussed above, Taylor is proposing to provide additional public access with the Proposal. This additional access will more than offset any minor impacts to public access from the Proposal. The Site of the Proposal is owned by the Washington Department of Natural Resources (DNR), and Taylor will lease the Site from DNR prerequisite to installing and operating the farm. Funds paid from Taylor to DNR from this lease are directed to community grants and projects benefiting state shorelines, habitats and public access through DNR’s Aquatic Lands Enhancement Account. In the 2022-2027 Mason County Parks, Recreation, Open Space and Trails Plan, Mason County identifies this account as a potential source of funds to support county priorities for public access projects.

The Parks Plan goes on to identify several objectives for enhancing and expanding parks and open space for residents. One of these priorities is the use of trails by developing safe water access points along shorelines for non-motorized watercraft. Community input showed a strong interest in developing trails in existing county parks, county-owned property and on privately owned land. Oakland Bay was called out specifically as a site of interest to expand water access for Washington Water Trails Association. Recommendations to advance these open space priorities state that strategies to increase this access should be pursued. “These strategies may include easements, partnerships, or acquisition as a condition of development approval.”

Taylor Shellfish owns significant tidelands near the Site that it is willing to provide formal public access to for the duration of the Proposal. This access would include Taylor’s private tidelands connecting existing parks and conservation properties at Bayshore, and a large strip of tidelands situated directly south of the proposed project out to the extreme low tide line. See Figure A. While Sunset Bluffs park, a Mason County park located immediately adjacent to the tidelands

has been temporarily closed by staff due to safety concerns, this park provided the public with shoreline views of Oakland Bay. Visitors to the park occasionally ventured down onto Taylor's private tidelands for beachcombing or fishing. This was informal access and generally discouraged as there was no improved path or staircase down to the beach. While this access from the uplands is not currently planned due to the park safety concerns and closure referenced above, Taylor Shellfish is willing to formally grant the public the right to access 15 acres of Taylor's tidelands along Sunset Road—which extend from OHWM to the extreme low tide line—for the life of the Proposal. See Figure A, Areas 1 and 2. Taylor also owns 1.6 tideland acres to the north of the Site in an area that is in between Capitol Land Trust's Bayshore Preserve and lands managed by the Washington Department of Fish and Wildlife. Figure A, Area 3. The public has demonstrated an ongoing interest in utilizing Area 3 for public access in the past, with individuals utilizing this area in conjunction with the Bayshore Preserve and WDFW properties. Taylor Shellfish is also willing to formally provide the public with the right to access this area for the life of the Proposal.

To encourage water access use of these tidelands, Taylor is currently working with Washington Water Trails Association (WWTa) to include these 16.6 acres as points of interest on their Cascadia Marine Trail. WWTa's mission is to protect and expand public access to Washington Shorelines for human and wind powered craft. The addition of the Sunset and Bayshore tidelands would extend the existing water trails, which stops at Walker Park in Shelton, out over 4 miles, link 3 launch and access points between Jacoby Shorecrest Park and Bayshore and call out scenic and historical points of interest. By working with the WWTa and helping to develop an interest in Oakland Bay and its long history of aquaculture and the rich natural resource industry of the area, this trail would expand public access interest to Washington Water Trail's over 900 of their paid members and 4,000 Facebook followers.

Together, the 16.6 acres of formal public access to the shoreline and development of outreach and education opportunities about the area that Taylor is proposing will offset the physical footprint of the Proposal, which is limited to 9.1 acres. And qualitatively, this offset will provide greater public opportunities to access the shorelines compared to any reductions in use caused by the Proposal. See Shoreline Inventory at 10-25—10-25 (reporting that a countywide survey indicate a strong desire for water access activities, with the top priority for park funding to go towards waterfront parks to improve water access, which will be provided by Taylor's proposed offsets).

This offset will also comply with all applicable sections of MCC 17.50.140(b). Among other things, the public access will be compatible with the natural shoreline character, no adverse impacts to shoreline ecological functions or public safety are expected, and connections to public streets are already provided. MCC 17.50.140(b)(8), (11). Taylor recognizes that public access easements and permit conditions shall be recorded prior to installation of the Proposal, and the company will install and maintain signs in conspicuous locations. MCC 17.50.140(b)(14), (15). These signs will notify the public of the right to access the identified areas during daylight hours and advise the public that the access areas are part of Taylor's farming operations, and that cultivated shellfish shall not be removed nor should gear be damaged or removed.

## **VI. Conclusion**

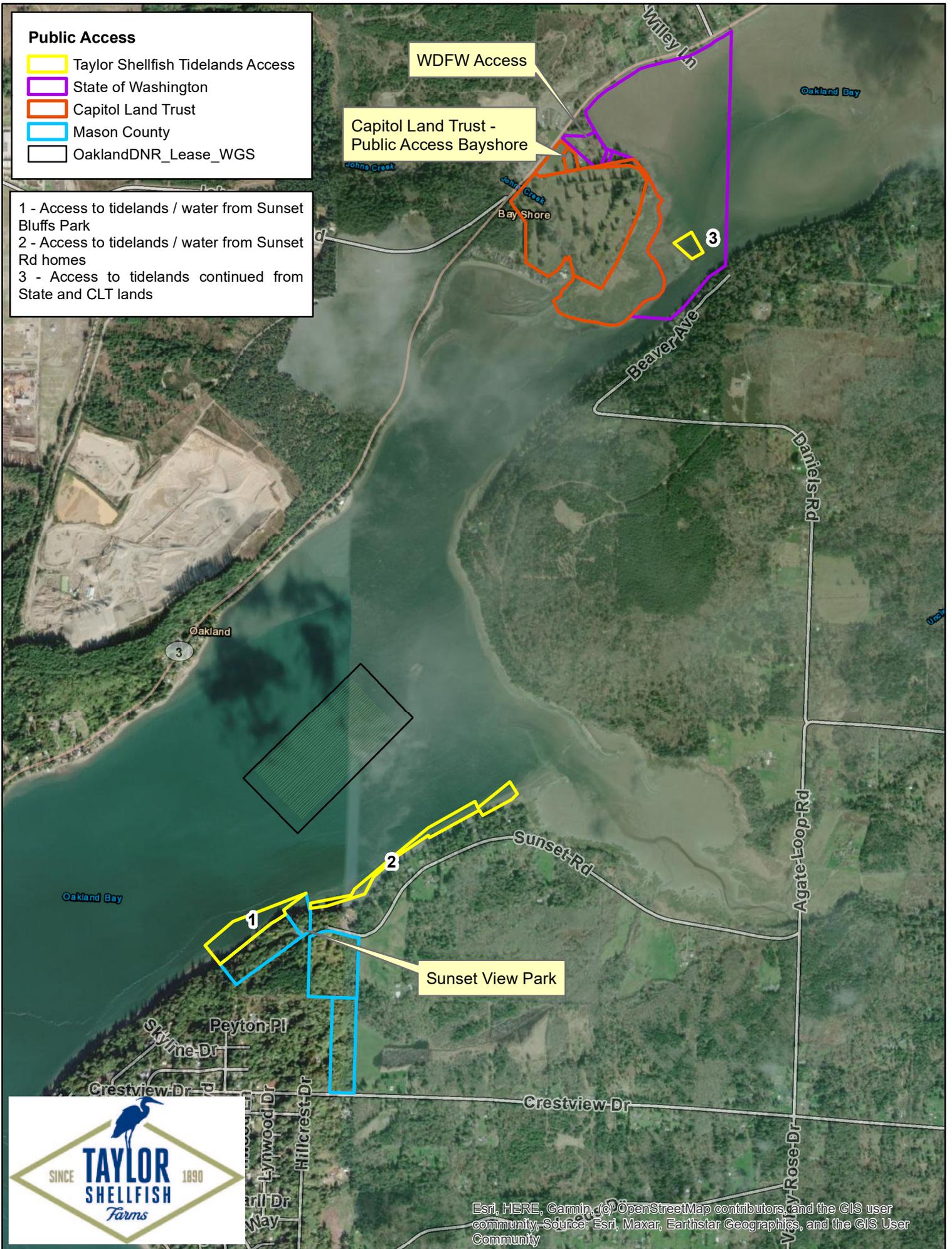
For the reasons set forth above, the Proposal will have a minor impact on public access, which will be self-mitigated by the project's design allowing for boating between lines and by the beneficial water quality and recreational shellfish harvest protections proposed by the Proposal. Any remaining public access impacts will be more than offset by the tidelands that Taylor Shellfish is proposing to make formally available for public access in the area for the life of the Proposal.

# Figure A

**Public Access**

-  Taylor Shellfish Tideland Access
-  State of Washington
-  Capitol Land Trust
-  Mason County
-  OaklandDNR\_Lease\_WGS

- 1 - Access to tidelands / water from Sunset Bluffs Park
- 2 - Access to tidelands / water from Sunset Rd homes
- 3 - Access to tidelands continued from State and CLT lands



WDFW Access

Capitol Land Trust -  
Public Access Bayshore

Sunset View Park

